

May 2 2007

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

FILED

THE STATE OF MONTANA,

PR06-0120

Plaintiff,

v.

SARAH J. RANZAU,

Defendant.

MAY 02 2007

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

ORDER

On April 17, 2007, Petitioner Sarah J. Ranzau filed a *pro se* motion to remove Honorable David G. Rice, District Judge, for cause pursuant to § 3-1-805, MCA, in Hill County Cause No. DC-05-016.

Section 3-1-805(1)(b), MCA, provides that an affidavit of disqualification shall be accompanied by a certificate of counsel of record that the affidavit has been made in good faith. Such affidavit shall be deemed to not have been made in good faith if it is based solely on rulings in the case made by the challenged judge.

The affidavit in support filed by Ranzau is based entirely upon rulings made in the case by the challenged judge and, therefore, is deemed not to have been made in good faith.

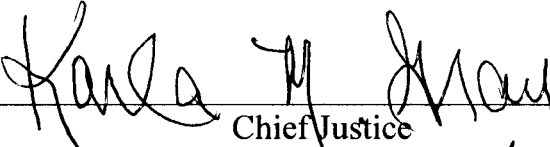
We determine that Ranzau's motion does not establish personal bias.

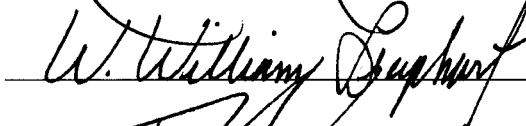
IT IS THEREFORE ORDERED:

1. Pursuant to 3-1-805(1)(c), MCA, the affidavit of disqualification is set aside as void.
2. Ranzau's motion to disqualify the district judge in Hill County Cause No. DC-05-016 is denied.

3. The Clerk is directed to mail a true copy hereof to the Clerk of the District Court of Hill County, Montana, for notification to counsel of record in DC-05-016 and to the Honorable David G. Rice, District Judge.

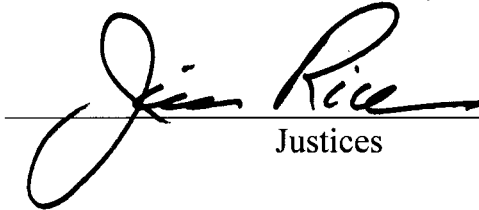
DATED this 2nd day of May, 2007.


Karla M. May
Chief Justice


W. William Lapham


Tom Warner

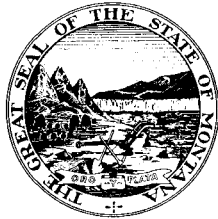

Patricia Cotten


Jim Rice
Justices

State of Montana
TWELFTH JUDICIAL DISTRICT COURT

Chouteau, Hill and Liberty Counties
Hill County Courthouse
Havre, Montana 59501
(406) 265-5481, Ext. 231 • FAX: (406) 265-1273

HON. DAVID G. RICE,
District Judge



PR06-0120

April 19, 2007

Chief Justice Karla M. Gray
Montana Supreme Court
P. O. Box 203001
Helena, Montana 59620-3001

RE: Request for Disqualification

Dear Chief Justice Gray:

An Affidavit of Sarah J. Ranzau in Support of Demand for Recusal and/or Disqualification of Judge David G. Rice has been filed in each of cause nos. DR-03-157 and DC-05-016, Hill County.

Enclosed are copies of the documents. Please review for compliance with § 3-1-805, MCA, and, if appropriate, assign a district judge to hear the matter. I will not recuse voluntarily as I believe Ms. Ranzau is "judge shopping".

Very truly yours,

David G. Rice

c: court file
Enclosures

1 Sarah Ranzau
12900 Penn Ave. S., #360
2 Burnsville, MN 55337
(952) 486-8379

3 Defendant

DENA TIPPETS
CLERK OF DISTRICT COURT

2007 APR 17 A 11:46

FILED

PRO6-0120

BY [Signature] DEPUTY

6
7 **MONTANA TWELFTH JUDICIAL DISTRICT COURT, HILL COUNTY**

8 THE STATE OF MONTANA

9 Plaintiff,

10 vs.

11 SARAH J. RANZAU,

12 Defendant.

) **Case No.: DC-05-016**

) **AFFIDAVIT OF DEFENDANT SARAH J.**

) **RANZAU IN SUPPORT OF DEMAND**

) **FOR RECUSAL AND/OR**

) **DISQUALIFICATION OF**

) **JUDGE DAVID G. RICE**

14
15 County of Dakota

16 ss.

17 State of Minnesota

18 I, Sarah J. Ranzau, do swear that the following is a true and correct statement of facts to
19 known to me.

20 Judge David G. Rice should be disqualified from proceeding any further in these causes
21 for the following facts that show personal bias or prejudice against me and further show that
22 Judicial misconduct by Judge David Rice has occurred and is ongoing. I make this request fully
23 in compliance with 3-1-805, M.C.A. It is more than 30 days prior to any hearing or trial.
24 Further, I submit that I am appearing pro se, representing myself in the civil matter and therefore
25 certify that this affidavit has been made in good faith. My attorney of record could not be
26 reached for assistance with the criminal matter as his request to withdraw is pending before this
27 Court and therefore assert these truths independent of counsel's assistance and certify that this
28 affidavit has been made in good faith for the criminal proceeding.:

1. I demand that the Honorable Judge David G. Rice immediately recuse himself fully from this civil action and accordingly from the related criminal action that is pending before this Court and this request is to include any and all future matters. I demand that Judge Rice take no other actions in the pending cases beyond restoration of my parental custodial rights.
2. I ask that since proper notice and opportunity has been given to the Honorable Judge David G. Rice to recuse himself, and the laws have been followed accordingly by this Petitioner/Defendant, that a full trial to disqualify Judge David G. Rice on this civil matter and the related criminal matter and all future matters be ordered to occur by a jury of my peers before an uninterested Montana District Court Judge. This request, as required by law, 3-1-805, M.C.A., shall be properly referred to the Montana Supreme Court for appointment of a District Court Judge to hear the matter in the event that an immediate voluntary recusal is not properly and immediately executed by the Honorable Judge David G. Rice.
3. I further demand that before executing full recusal, this Court execute complete restoration of Petitioner's parental time and full custodial rights as it should be and was just before it was unlawfully revoked by this Court.
4. This Court is personally biased and/or prejudiced against Petitioner/Defendant in these actions. For this Court to act any further on these cases would be acting without jurisdiction under the laws of the State of Montana and the laws of the United States of America. I further submit that additionally this Court has recently acted without lawful subject matter jurisdiction in the civil matter as is required by the Uniform Child Custody Jurisdiction and Enforcement Act which was adopted by the State of Montana and govern any child custody modification. I further submit that this Court lacks jurisdiction due to inconvenient forum.
5. This Court has repeatedly expressed opinions both verbally and in writing and taken actions that are partial against Petitioner in this civil matter and Defendant in the related pending criminal case that are in favor of Respondent/Father in the civil case as follows

rulings

1 and are supported by the records of this case.

- 2 6. Petitioner was verbally reprimanded by this Court when it stated in open Court in front of
3 many people that Petitioner was already in trouble for having violated his order and she
4 had better not even think of doing it again. This degradation and threat was an act of
5 intimidation on this Court's part attempting to allege violations of an Interim Court
6 Order, in direct violation of Petitioner's rights to due process of the law. The matter had
7 not been before this Court for hearing or trial for Contempt of Court, and never has been
8 since then. There was never any finding of Contempt of Court related to this allegation
9 or the criminal charges of Custodial Interference that would allow this type of statement
10 to be supported by the law or a finding of facts; there was no custody decree at that time.
11 Petitioner had sole legal and physical custody of the minor child and with that authority
12 sole decision making authority. The statement of Judge Rice was a declaration of
13 profound personal bias against me, the Petitioner and Defendant, on the part of Judge
14 Rice. It further clarifies that this Court supports the actions of the corrupted Hill County
15 Attorney's Office for having illegally charged me, the legally sole custodial parent, with
16 Custodial Interference in a desperate attempt to create an undue advantage for a
17 chemically dependent batterer father in a custody battle. This action was forbidden by
18 law as the only law for them to have complied with was the law that I had sole custody.
19 This was in violation of so many laws of the State of Montana and the Constitution of the
20 United States of America and the Constitution of the State of Montana. The Hill County
21 Attorney's Office had no legal authority to act when they exceeded the scope of their
22 duties absent a finding of Contempt of Court in addition to having sole custody of the
23 minor child. This unlawful act further placed an innocent child in harms way by allowing
24 the Respondent father unlawful custody of his child after crossing state lines to abduct
25 him from his only lawful custodian, his mother, Petitioner in this action, in violation of
26 all State and Federal laws related to Parental Kidnapping and Custodial Interference
27 which was assisted and perpetrated by the Hill County Attorney's Office, The Hill
28 County Sheriff's Office for requesting his abduction by the Apple Valley Minnesota

1 Police Department and later obstructing the return of the minor child to his lawful
2 custodian, me, the Petitioner/Defendant, the paternal grandmother, Darlene Mayer for
3 directly assisting in his abduction from Minnesota, Respondent's attorneys Carl White
4 and Roxanne Rogers for covering up the kidnapping, the Havre Police Department for
5 their refusal to cooperate in his retrieval, Apple Valley Minnesota Police Department for
6 abducting him absent a pick up order, Dakota County Child Protective Services for
7 releasing him absent a valid Court Order specifically directing them to do so, Hill County
8 Child Protection for refusal to cooperate in ensuring the child's safe removal from the
9 perpetrator, Roy J. Mayer, Judge Buyske of Toole County for signing a warrant
10 unsupported by law or evidence, and possibly Emily Mayer-Lossing for conspiring to
11 kidnap a child. This father was at that time, restricted to very limited supervised contact
12 by this Court in its Interim Order because of his chemical dependency status and repeated
13 convictions of domestic violence, criminal trespass, and DUI's. The father's conduct,
14 and everyone else's conduct, was not recognized by this Court for the illegal act that it
15 was and instead rewarded the felonious actions with more parenting time and a new
16 award of parental authority for the very first time in the minor child's life. The conduct
17 of Judge Rice constitutes additional acts and declarations of personal bias against
18 Petitioner/Defendant and in favor of Respondent father and constitutes misconduct, and
19 possible conspiracy to cover up a crime. This father is the brother of Mrs. Emily Mayer-
20 Lossing, close personal friend, past co-worker, and continued subordinate of the Hill
21 County Attorney's Office, and close personal friend and co-worker of the Honorable
22 Judge David G. Rice. Mrs. Emily Mayer-Lossing then served on the Historical Society's
23 Preservation Board as well as the Havre City Council responsible for a number of
24 authoritative acts including but not limited to approval of pay raises and promotions for
25 City of Havre employees, to include the Havre Police Department. Mrs. Emily Mayerr-
26 Lossing has repeatedly abused her position of influence in the City of Havre, and Hill
27 County Montana for hers and her husband's personal crusades against Mayor Bob Rice
28 and others. The County Attorney Office's unlawful acts should have been reduced,

1 disciplined, and dismissed by this Court since the criminal complaint was void on its face
2 lacking any support by state laws or evidence. The unlawful acts of the County
3 Attorney's Office should not have been supported and furthered by attempting to threaten
4 and intimidate the Petitioner/Defendant and further allowing the charges to continue
5 when Judge Rice knew them to be false. This is especially true because the charges
6 completely lack any factual basis or support by the law as any average person could have
7 and has easily concluded. The fact that the County Attorney's Office waited until the
8 very hour of Judge Rice's temporary absence from the bench for a personal vacation in
9 order to obtain an alternate Judicial signature from Judge Buyske for their arrest warrant,
10 which was not supported by evidence, only a fraudulent affidavit, does not negate or
11 nullify Judge Rice's obligations to the Petitioner/Defendant to dismiss the fraudulent
12 criminal charges and discourage and punish the actions of the County Attorney's Office,
13 Respondent/Father, paternal grandmother, Darlene Mayer, and all other parties under his
14 jurisdiction and make a referral for investigation for others not under his jurisdiction.
15 This may further be an act of conspiracy to commit a crime. There is further evidence of
16 this crime committed against me and their knowledge that their acts were criminal, not
17 only because of their formal training, but because the Hill County Attorney's Office and
18 Judge David Rice were so compliant with quashing the arrest warrant immediately upon
19 motion and further granted a Deferred Prosecution agreement. If their convictions about
20 their case were strong to lead to conviction, they would have pursued this matter much
21 more aggressively. I was effectively denied life, liberty, and the pursuit of happiness as
22 well as due process of the law.

- 23 7. This Court made a statement in a recent order that the only reason an Order for Protection
24 was granted by the Minnesota Court on behalf of Petitioner and her children was because
25 Respondent did not object to it. There is no finding in the records from a hearing or trial
26 to support this very biased statement. To the contrary, the record and the evidence on
27 record show that Respondent was in fact convicted of harassing Petitioner, Sarah Ranzau,
28 which is another of numerous convictions for crimes of domestic violence committed by

1 the Respondent. This conviction took place just a few months prior in March 2006. The
2 Order for Protection further shows that Respondent acknowledges that consenting to the
3 Order is an admission that he has committed further acts of domestic violence. The
4 Order for Protection was personally served upon the Respondent by the Clerk of Court in
5 Minnesota and initialed by Respondent acknowledging service on the final page
6 immediately following the hearing. This statement by Judge Rice completely undermines
7 the authority of the Minnesota Court and places a convicted batterer up on a pedestal in
8 an apparent effort to reward his continued and repeated acts of domestic violence against
9 women, this Petitioner/Defendant and her family most recently.

- 10 8. This Court has repeatedly reduced, removed and without any authority, revoked this
11 Petitioner/Defendant's constitutional rights and the right to parent her child without any
12 laws in support of those actions. Most recently all parenting time for this
13 Petitioner/Defendant was revoked by this Court without following any of the laws that
14 govern this type of action. Just prior to the revocation, this Petitioner/Defendant's
15 parenting time was reduced by this Court in violation of the laws that govern this type of
16 action. There was no hearing, no new trial for a modification; neither was even ordered
17 by this Court as is required by law. This was all done in complete absence of the
18 evidence that is required by law. The law is very clear that a hearing is required within
19 twenty days of issuance of even a temporary parenting plan. This was not a temporary
20 parenting plan; it was a complete and malicious revocation of parental time in obstruction
21 of justice. A hearing was not ordered and the law does not provide for revocation of
22 parental rights without a hearing within twenty days even if there had been a substantial
23 finding of the threat of physical and/or emotional harm to the child, which was not the
24 case here as there was no evidence of this type of a claim. To the contrary, the child has
25 repeatedly declared to his medical providers in Minnesota and their statements of these
26 declarations have been submitted to Judge Rice, that the Respondent has abused him and
27 he continues to further place the child at risk of further harm by taking him off of all
28 prescribed medication without any authorization to do so. Petitioner/Defendant was not

1 allowed the time prescribed by the law to respond to motions submitted, it was ruled
2 upon prematurely with no due consideration given, in violation of due process of the law.
3 These are further declarations of bias against Petitioner/Defendant and in favor of
4 Respondent. The opposing Counsel's motions should not have been ruled upon because
5 they were not in proper compliance with the Uniform District Court Rules governing ex
6 parte motions, lacked any substantive nature or evidence, were frivolous and an abuse of
7 process, and one of the motions was not even made ex parte by opposing counsel.

- 8 9. This Court most recently held a hearing in the absence of Petitioner fully knowing based
9 upon evidence that was submitted by Petitioner to this Court that she was in the hospital
10 with one of her other children due to his emergency medical needs. This is yet another
11 display of bias against Petitioner/Defendant and in favor of Respondent. There was
12 absolutely no consideration given to the Petitioner and her family's needs in this
13 situation. Judge Rice further manipulated Petitioner's situation to hold this hearing for
14 contempt and issue a finding of contempt for actions that she could not have been guilty
15 of committing. This violated my rights to due process of the law. This was also decided
16 by this Court in violation of the Full Faith and Credit laws of the United States of
17 America requiring courts to give full consideration to orders issued from other states that
18 affect the action before this Court. This applies to the Order for Protection that was
19 issued by the Minnesota First Judicial District Court, the Honorable Judge Micheal Sovis
20 presiding. This Court alleges that Respondent's failure to pick up our child in Minnesota
21 somehow constituted contempt on Petitioner's part. This finding was made based strictly
22 on hearsay, which is not allowable evidence. Respondent was required by the Custody
23 Decree to come to Minnesota to pick him up. Respondent never did this. Judge Rice
24 never bothered to properly acknowledge that Respondent is legally barred from any and
25 all contact with Petitioner and that it is his actions solely that frustrated the situation for
26 him due to his inability to make proper arrangements because of the Order for Protection.
27 Arrangements for custody that never should have been allowed for the Respondent father
28 if this Court had properly amended the parenting plan as is required by law in

1 consideration of the ongoing domestic violence, and was also requested by
2 Petitioner/Defendant.

3 10. This Court has repeatedly engaged in conduct by making statements that were degrading,
4 punitive, disrespectful and intimidating to Petitioner/Defendant's Counsel and witnesses.
5 This Court has made statements to Petitioner's Counsel at hearings in an attempt to
6 undermine and interfere with Petitioner's lawful rights that were not warranted by the
7 situation at hand and should have been handled much more professionally if there had
8 actually been any legitimate basis for the statements made. This Court has further
9 interrupted Petitioner's witnesses in their testimony stating that Judge Rice already knew
10 all of that and aggressively inquiring if they had any worthwhile contribution to make to
11 the case. Then further insinuating that my witness was a liar because testimony that he
12 was giving could not have been true and he must be mistaken because it was adverse to
13 Respondent and was made in support of unlawful acts of the Respondent. These were
14 additional declarations made by Judge Rice based on its conduct in favor of Respondent
15 and clearly biased against Petitioner/Defendant. There was no evidence to support
16 conclusions drawn by Judge Rice about this witness's testimony and Respondent should
17 have been criminally charged and held in contempt of Court for his felonious conduct of
18 witness tampering and assault once again. This unbiased expert witness has since
19 submitted affidavits detailing this violent encounter and stating that he fears for his safety
20 if he is ever required to testify against Respondent again. This was completely ignored
21 by Judge Rice, another biased action and further misconduct.

22 11. Judge Rice has further shown his bias when he refused to grant my request for
23 substitution of Judge and cited laws completely unrelated to his refusal to grant my
24 motion, making it clear that he is too personally involved in this case to let it go, and
25 quite probably concerned that his misconduct and potentially criminal acts may be
26 discovered, scrutinized, and punished. This Petitioner requested reconsideration as her
27 motion was made timely and not denied in relation to the appropriate statutory laws
28

governing substitutions further clarifying that he did not support his denial with a lawful response. This was ignored by Judge Rice and has surpassed the timeline for reply.

12. Petitioner has repeatedly requested child support modification only to be obstructed by Judge Rice even when he lacked jurisdiction to rule on the matter as he was not presiding over the CSED's administrative hearing that was to take place earlier this year. Initially this request was made on February 5, 2004 during a hearing before Judge Rice. This request delayed repeatedly and then dismissed much later in its Final Parenting Plan, Findings of Fact and Conclusions of Law dated December 2, 2005, all the while creating a financial advantage for Respondent father, Roy J. Mayer, and a tremendous disadvantage for Petitioner/Defendant Sarah J. Ranzau. A further act obstructing Petitioner's right to due process and declaring personal bias against Petitioner. This was obstructed again the first part of this year when Respondent's Counsel sought a stay of administrative hearing from Judge Rice, who was not even presiding over the matter, and was granted by him ex parte, all because there was going to be a request for Child Custody Modification possibly filed at a later date and Respondent's Counsel was not prepared to go forward with the administrative hearing, not a lawful purpose of an ex parte order and further proof of personal bias.

13. Judge Rice allowed Respondent's side to conduct four hours of testimony during a May 2005 hearing and allowed Plaintiff's side less than 45 minutes for testimony and refused to hold the matter over for the following day. Another declaration and act of personal bias.

14. In December, 2004, Petitioner sought an Order for Protection from Judge Rice because Respondent continued to be physically abusive toward Petitioner and would stalk, harass and break into her home, with absolutely no assistance from Havre City Police other than to warn him not to continue with his actions. This was ignored by Judge Rice and he later stated in his December 2005, 1 year later, Findings of Facts and Conclusions of Law, that it was not sworn to so he could not act on it. This does not explain the lack of

1 action in setting the matter for a hearing, as required by law. This was another act of bias
2 on Judge Rice's part.

3 15. Judge Rice has repeatedly ruled on motions from Respondent that were not sworn to or in
4 proper form, and has consistently ruled within a very brief period of time, frequently in
5 violation of the law. Judge Rice has repeatedly failed to rule on Petitioner's motions in a
6 timely manner and has frequently failed to respond at all, like when her request for an
7 Order for Protection was not sworn to. Further acts of bias and misconduct on Judge
8 Rice's part.

9 16. Roy J. Mayer was initially ordered by Judge Rice to obtain a chemical dependency
10 evaluation and treatment, attend anger management classes, and attend parenting classes.
11 When he continuously failed to comply, Judge Rice decided to award his contemptuous
12 behavior with more parenting time and more parental rights. This is further evidence of
13 personal bias and prejudice.

14 17. Judge Rice recently ruled within four days of a filing on a motion from opposing counsel
15 in the civil matter for an updated report of the Guardian Ad Litem. The motion was not
16 made ex parte. Judge Rice had previously dismissed this Guardian Ad Litem's services
17 in his Findings of Facts, Conclusions of Law, and Decree dated December 2, 2005. This
18 is an unlawful act and is further evidence of his personal bias.

19 18. All of the facts stated herein are supported by the records of this case and it shall be
20 followed by my brief and supporting documents, though not required by law.

21 19. I have submitted two original affidavits that are equal in substance for each different
22 cause that Judge Rice is presiding over.

23 20. These affidavits, accompanying certificates of pro se litigant of good faith, and
24 certificates of service by mail have been sent for filing today, April 16, 2007, 32 days
25 before the a matter set for hearing, via Federal Express Priority Overnight, Tracking
26 Number 7902 2645 6132 to the Clerk of District Court, Montana Twelfth Judicial District
27 at 315 Fourth Street, Havre, Montana 59501.
28

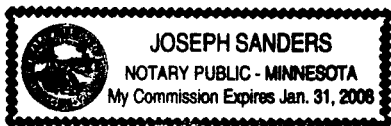
1 Dated this 16th day of April, 2007.

2 Sarah J. Ranzau
3 Sarah J. Ranzau

4 County of Dakota

5 State of Minnesota

6
7 SUBSCRIBED AND SWORN TO BEFORE ME this 16 day of April, 2007.



15 (Notary Seal)

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28

Joseph Sanders
Notary Public for the State of Minnesota

Name: Joseph Sanders

Title or Rank: Notary Public

Residing at: Apple Valley, MN

My Commission expires: Jan 31, 2007

Certification

I, Sarah J. Ranzau, could not reach my attorney for this certification of counsel as he has requested to withdraw. I cannot afford an attorney. I am acting as my own representative in pursuing restoration and preservation of my right to fair and impartial hearings and proceedings on any or all matters, either criminal or civil, which have or may be brought against me in Hill County, Montana.

In the absence of legal counsel, I, Sarah J. Ranzau, do swear and certify that the **Motion for Disqualification of Judge**, attached herewith, is made in good purpose and conscious, by me, IN GOOD FAITH.

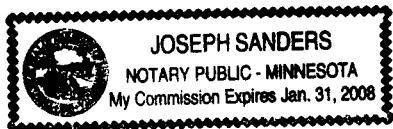
DATED this 16th day of April, 2007.

Sarah J. Ranzau
Sarah J. Ranzau

County of Dakota

STATE OF MINNESOTA

SUBSCRIBED AND SWORN TO BEFORE ME, this 16 day of April, 2007, by Sarah J. Ranzau.



(Notary Seal)

Joseph Sanders
Notary Public for the State of Minnesota
Print Notary Name: Joseph Sanders
Residing at: Apple Valley, MN
My Commission expires: Jan 31, 2008

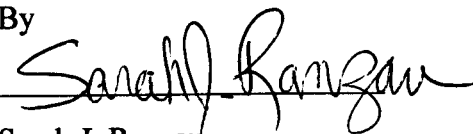
Certificate of Service by Mail

This is to certify that the foregoing was duly served by depositing a true and correct copy of the same into the US mail on this 16th day of April, 2007, upon the Plaintiff and Defendant's Attorney at their addresses of:

Hill County
County Attorney
315 4th Street
Havre, MT 59501

And
Scott Albers, Attorney at Law
Counsel for Defendant
Strain Building
410 Central Ave., Ste 613
Great Falls, MT 59401

By


Sarah J. Ranzau